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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,741	09/14/2000	Herman Bustamante	12755-052700US	1967

20350 7590 04/23/2003

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

APPIAH, CHARLES NANA

ART UNIT	PAPER NUMBER
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2682

DATE MAILED: 04/23/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action in Ex Parte ReexaminationControl No.
09/662,741Patent Under Reexamination
BUSTAMANTE ET AExaminer
Charles AppiahArt Unit
2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

- a ☒ Responsive to the communication(s) filed on 4/4/03. b ☐ This action is made FINAL.
c ☐ A statement under 37 CFR 1.530 has not been received from the patent owner.

A shortened statutory period for response to this action is set to expire _____ month(s) from the mailing date of this letter. Failure to respond within the period for response will result in termination of the proceeding and issuance of an *ex parte* reexamination certificate in accordance with this action. 37 CFR 1.550(d). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).** If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 3. <input type="checkbox"/> Interview Summary, PTO-474. |
| 2. <input type="checkbox"/> Information Disclosure Statement, PTO-1449. | 4. <input type="checkbox"/> _____. |

Part II SUMMARY OF ACTION

- 1a. ☒ Claims 1-25 are subject to reexamination.
1b. ☐ Claims _____ are not subject to reexamination.
2. ☒ Claims 26-32 have been canceled in the present reexamination proceeding.
3. ☐ Claims _____ are patentable and/or confirmed.
4. ☒ Claims 1-25 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ The drawings, filed on _____ are acceptable.
7. ☐ The proposed drawing correction, filed on _____ has been (7a) ☐ approved (7b) ☐ disapproved.
8. ☐ Acknowledgment is made of the priority claim under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some* c) ☐ None of the certified copies have
 1 ☐ been received.
 2 ☐ not been received.
 3 ☐ been filed in Application No. _____.
 4 ☐ been filed in reexamination Control No. _____.
 5 ☐ been received by the International Bureau in PCT application No. _____.
 * See the attached detailed Office action for a list of the certified copies not received.
9. ☐ Since the proceeding appears to be in condition for issuance of an *ex parte* reexamination certificate except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte* Quayle, 1935 C.D. 11, 453 O.G. 213.
10. ☐ Other: _____

cc: Requester (if third party requester)

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 16, 2003 has been entered.

Reissue Applications

2. In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

3. This application is objected to under 37 CFR 1.172(a) as lacking the written consent of all assignees owning an undivided interest in the patent with respect to the offer to surrender original patent filed on April 23, 2003. The consent of the assignee must be in compliance with 37 CFR 1.172. See MPEP § 1410.01.

A proper assent of the assignee in compliance with 37 CFR 1.172 and 3.73 is required in reply to this Office action.

It would be acceptable for a person, other than a recognized officer, to execute a submission establishing ownership interest, provided the record for the application includes a statement that the person is empowered to sign a submission establishing ownership interest and/or act on behalf of the assignee.

Accordingly, a new submission establishing ownership interest, which includes such a statement above, will be considered to be executed by an appropriate official of the assignee. A separately filed paper referencing the previously filed submission establishing ownership interest and containing a proper empowerment statement would also be acceptable.

4. Applicant is reminded that the original patent, or a statement as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

Specification

4. The disclosure is objected to because of the following informalities: Because the precise point in the specification where an amended paragraph is to be inserted must be located. 37 CFR 1.173(b)(1). All subject matter being added to the parent must be underlined. All subject matter being deleted from the patent must be placed between brackets. 37 CFR 1.173(d).

Amendment to the claims must be made as set forth in 37 CFR 1.173(b)(2), as follows:

Any change to the text of a claim (original or new) must be presented as an entire numbered claim. All subject matter being added to an original patent claim must be underlined. All subject matter being deleted from an original patent claim must be placed between bracket. 37 CFR 1.173(4)(2) and (d). subject matter being added to a new claim requires rewriting and underlining of the entire new claim.

The amendment to claim 13, filed on 4/4/03 must conform to 37 CFR 1.173(b)(2) by having the parenthetical expression "(amended)", "(twice amended)", etc., follow the original claim number. Alternatively, applicant may effectively re-write a claim by presenting it as a new (fully underlined) claim with a new claim number, and canceling the old claim. Brackets and underlining are to be used to reflect only those changes in the text from the original patented text and not from the any previous amendment in the reissue application 37 CFR 1.173(g).

Each amendment submission must set forth the status of all patent claims and all added claims (i.e., "pending" or canceled") as of the date of the amendment . 37 CFR 1.173(c).

Appropriate correction is required.

5. Claims 1-25 are rejected as being based upon a defective reissue amendment under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Appiah whose telephone number is 703 305-4772. The examiner can normally be reached on M-F 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 703 305-6739. The fax phone numbers for

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the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703 308-6296 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 306-0377.

CA
April 17, 2003


CHARLES APPIAH
PATENT EXAMINER